

**CONTRACTING WITH  
DDS GENERAL OVERVIEW  
MAY 2017**

Useful Hyperlinks	p. 2
Becoming a Provider	p. 2
Provider Qualification	p. 3
COMMBUYS	p. 3
RFR Planned in FY2018	p. 4
Request for Response (RFR) (Also known as BID on COMMBUYS)	p. 4-5
Qualified Contractor	
Open and Rolling Enrollment	
Master Agreement and Rate Contracts	
Processing Contracts Awarded Day and Employment Services	p. 5
Processing Contracts Awarded: Support Services	p. 6
Processing Contracts: Not Rate Regulated	p. 6-7
Name or Address Change	p. 7
Change in Contractor Identity	p. 8-9

## **USEFUL HYPERLINKS**

There are several hyperlinks to websites that may be useful to the provider. Many of these hyperlinks appear in the relevant sections of this Manual. In addition, as a convenience to the reader, the hyperlinks to the most useful forms/instructions are located below:

Department of Developmental Services website:

<http://www.mass.gov/dds>

EOHHS Website for Contracting

<http://www.mass.gov/eohhs/> (Type "Contracts" in Search)

Office of the State Comptroller (OSC):

<http://www.mass.gov/comptroller/>

Operational Services Division (OSD):

<http://www.mass.gov/anf/budget-taxes-and-procurement/oversight-agencies/osd>

EOHHS Regulated Rates

<http://www.mass.gov/eohhs/gov/laws-regs/hhs/purchase-of-service-rates-for-social-services.html>

Vendor Web is a common access point for Commonwealth providers from which they may get their payment information easily.

<http://www.mass.gov/osc/guidance-for-vendors/>

## **I. BECOMING A PROVIDER**

Individuals, corporations, or partnerships interested in becoming a provider of services to any of the departments under the *Executive Office of Health and Human Services (EOHHS)* should first go the EOHHS Internet Website for Contracting with EOHHS for required forms and instructions using the following link: <http://www.mass.gov/eohhs/provider/contracting/>

The main page has the following links:

- How the State Purchases;
- Potential New Purchase of Service (POS) Providers;
- Existing POS Providers;
- Provider Qualification Process;
- EOHHS Provider Qualification – Agency Contacts/Liaisons; and
- Doing Business with Health and Human Service Agencies.

Providers that are new to contracting any EOHHS Department will need to be prequalified to do business with the Commonwealth. It is important to note that this process only signifies that a provider is financially qualified to do business with EOHHS agencies/departments; it does not entitle a provider to any level of business with a state agency. Actual contract awards must generally be made on the basis of a competitive bid process. Active bids for services are listed on the Commonwealth Buys System (COMMBUYS) at: [www.commbuys.com](http://www.commbuys.com)

## **II. PROVIDER QUALIFICATION**

Each new fiscal year, prior to contracting with any of the departments under the Executive Office of Health and Human Services (EOHHS), providers must undergo a Financial and Programmatic Qualification Process. This annual provider qualification review process is performed for the following reasons:

1. To minimize financial and administrative risk to the Commonwealth and the people served through the POS system;
2. To promote familiarization and enforce compliance with applicable state and federal regulations; and
3. To maintain current, accurate information on POS organizations, including contact names, addresses, and other information critical to the effective and efficient management of the POS system.

Often, provider organizations render services to multiple Executive Office of Health and Human Services (EOHHS) state agencies; however, the organization is qualified by only one agency. The State agency within the EOHHS Secretariat that provides the most POS funding to a state provider during a fiscal year is considered the Principal Purchasing Agency (PPA) and is required to qualify their providers annually.

Providers who have not been qualified by an EOHHS based on their submission of financial and organizational information should take steps to begin the EOHHS POS Qualification Process prior to submitting a response to a RFR. The Department is unable to issue a contract to any provider that is not financially qualified. Up-to-date forms and instructions regarding the EOHHS POS Qualification Process are available by clicking on the following link:

<http://www.mass.gov/eohhs/provider/contracting/>

When accessing this website, please refer to “Potential New Purchase of Service (POS) Providers” and the related materials. This website will provide basic information regarding the process of contracting with any EOHHS agencies, documentation requirements necessary for qualification purposes, as well as blank forms.

## **III. COMMBUYS**

All procurements for DDS services are posted on the COMMBUYS system. The COMMBUYS site lists all current Requests for Responses (RFR’s) open for provider bids. To view open DDS RFR’s navigate the website as follows:

- [www.commbuys.com](http://www.commbuys.com)
- From main COMMBUYS page, select “Contract and Bid Search”
- On next page, select “bids”
- For search fields, select DDS
- Select the bid opening date, if you know it, or select “Charles Smith” as the purchaser
- Select the “find” button
- Select from the array shown

To be notified automatically regarding new RFR’s, it is recommended that providers register with COMMBUYS.

#### **IV. RFRS PLANNED IN FY2018**

Programs that DDS plans to re-procure include the following services in FY2018. The contracts are sending and have no more options to renew:

- DDS/DESE Support Services: 3738
- Agency with Choice Services: 6700, 6701, 6703, 6704, 6707, 6753, 6780
- Guardianship: 3279. This service is not considered POS but is included in Manual as a number of POS contractors contract with Department for this service.

#### **V. REQUEST FOR RESPONSE (ALSO REFERRED TO AS BID ON COMMBUYS)**

The RFR will indicate where the Department intends to award a single contract or multiple contracts. A RFR may be competitive and only a specific number of awards will be made, or may result in a qualified contractor list whereby the department will award contracts to a number of providers.

##### **Qualified Contractor List: Master Agreement Contract**

The purpose of the RFR is to identify multiple contracts by establishing a set of criteria for providers to be included as a qualified provider. Qualification may include technical expertise, experience, staffing, location, etc. Providers that are evaluated as qualified execute a Master Agreement/Rate Contract with the Department and are placed on a qualified vendor list. Signing a Master Agreement contract is no guarantee the Department will “engage” the provider during the life of the contract. The Department primarily uses this option for Chapter 257 rate regulated services where rates of payment are set by the Executive Office of Health and Human Services. The Master Agreement is written as a Rate Contract and no maximum obligation is noted on the Standard Contract Form. A description of the services for each program covered by the Master Agreement is noted in the RFR and the provider’s submission.

##### **Open and Rolling Enrollment Qualified Contract Lists**

The Open method allows new Bidders to submit responses after an initial selection period as specified by the Department. The rolling method allows Bidders to submit responses at any times during the procurement.

##### **RFRS OPEN FOR INITIAL QUALIFICATION OR ADDING SERVICES:**

- EMP-DAY-09 (Employment and Day Supports)
  - All employment and day services except for CIES (activity code 3180). CIES was procured by EOHHS and is a closed procurement. Current contracts end 6/30/2017. The Executive Office is extending the CIES Master Agreement contracts to 6/30/2019.
  - Activity codes that come under Day and Employment Services are listed on pages 5 and 6.
- ALTR-14 (Adult Long Term Residential Services)
  - Activity code 3153, 3753, 3751 and 3713
- PS-15 (Placement/Shared Living)
  - Activity code 3150 and 3752
- ANSS-15 (As Needed Support Services)
  - Activity Code: 3174
- DESE/DDS (Qualifying List for Self Directed Services)
  - Activity Code: 3738
- SSQUAL -10 (Support Services)

- Updated in 2016 to incorporate changes as a result of COMMBUYS, Chapter 257, forms, etc.
- Activity Codes that come under SSQUAL are noted on page 6.
- IHS – 16 (In Home Supports for individuals in home, family or in community)
  - Activity Code: 3798

All other RFRs are closed. DDS may choose to reopen a procurement to add provider or services. Any reopening of a RFR will be announced on COMMBUYS

**Master Agreement contracts** are issued as multi-year. Unless there is a change in contractor identity or services a provider is qualified to provide, an amendment to the Standard Contract Form is not required. Generally, unless a termination notice has been given pursuant to the Commonwealth Terms and Conditions for Human and Social Services, Master Agreement contracts will remain in force for the duration of the procurement. The Departments reserve the right to make contract awards for a shorter duration when it is in the best interests of individuals and the Commonwealth. In addition, the Department reserves the right to remove a provider from a qualified list and terminate the Master Agreement contract where health and safety, debarment, significant performance, or public accountability concerns indicate that the provider's continued participation is not in the Commonwealth's best interest.

**Rate Contracts** are also issued for multi-year but, unlike the Master Agreement contract, providers are not placed on a Qualified Provider list. The standard contract form looks the same and services are managed through a Service Summary Form. The primary different is that contracts are based on a competitive procurement. Instead of a qualified list of providers responding to a rolling enrollment RFR, the procurement is closed and a limited number of awards are made as outlined in the RFR. If the Department wishes to add new providers, the Department must update and reissue the RFR. Examples of services supported through this type of RFR are:

3182: Emergency Residential  
 3770: Family Support Centers  
 3771: Cultural and Linguistic Family Support Centers  
 3772: Autism Support Centers  
 3773: Intensive Flexible Family Support Services  
 3774: Medically Complex Program  
 7100: Autism Coaching

#### **D. PROCESSING CONTRACTS AWARDED PURSUANT TO THE RFR FOR DAY AND EMPLOYMENT SERVICES**

The Standard Contract Form cover page submitted by the provider in response to the RFR for Day and Employment services is a Master Agreement that is filed in Central Office and covers the following activity codes.

3163 – Community Based Day Supports  
 3165 – Adult Day Services  
 3168 – Individual Supported Employment

3181 – Group Employment  
3285 – Day Habilitation Supplement  
3664 – Day Habilitation Services  
3681 – DDS/Group Supported Employment Partnership  
3764 – Facility Day Habilitation

#### **E. PROCESSING CONTRACTS AWARDED PURSUANT TO THE RFR FOR THE SUPPORT SERVICES QUALIFYING LIST.**

The Standard Contract cover page submitted by the provider in response to the RFR for any services in the activity codes awarded under RFR SSQUAL-10 and the updated version of SSQUAL-10 posted in FY2016 is a Master Agreement that is filed in Central Office and covers the following activity codes:

3700 - Family Support Navigation  
3701 - Respite In Recipient's Home-Day  
3702 - Respite In Care Giver's Home  
3703 - Individualized Home Supports  
3705 - Children's Respite in Care Giver's Home-Day  
3707 - Adult Companion  
3709 - Community Family Training/Residential Family Training  
3710 - Behavioral Supports and Consultation  
3712 - Emergency Stabilization in Caregiver's Home  
3716 - Community Peer Support/ Residential Peer Support  
3731 - Respite in Recipient's Home- Hourly  
3735 - Children's Respite in Care Giver's Home-Hourly  
3759 - Site Based Respite (Planned, for adults)  
3775 - Planned Facility-Based Respite Programs for Children

Please refer to the Activity Code Definitions, Forms, & Instructions Section of this Manual for complete definitions of all program and services.

#### **F. PROCESSING CONTRACTS NOT SUBJECT TO REGULATED RATES**

While DDS primarily issues Rate contracts that reference Chapter 257 regulated rates, a few services are still contracted under the long standing procedure of negotiated unit rate/maximum obligation contracts or cost reimbursement/maximum/obligation contracts. Negotiated unit rate contracts are primarily issued for DDS non blended transportation or for LUSA (as needed services) when a regulated rate does not exist for the as needed service in question.

- a. MAXIMUM OBLIGATION/NEGOTIATED UNIT RATE contract includes a line item program budget (Attachment 3: Fiscal Year Program Budget) negotiated by the provider and DDS staff as well as unit rate calculation budget (Attachment 4) which is used to calculate the negotiated unit rate based on the total budget from the Attachment 3. In this type of program budget, the maximum obligation, the number of units and the unit rate are specified and become fixed at the start of the contract. An amendment is required to change the maximum obligation, the number of units, and/or the unit rate. Unit rate can be a monthly accommodation rate or a daily rate.

b. **COST REIMBURSEMENT BUDGETS** – A cost reimbursement budget is designed to reimburse the provider a sum of money based upon the line item values contained in the budget. Unlike a unit rate budget, the reimbursement is not directly based upon the delivery of a specified number of units (although acceptable delivery of services is a factor in reimbursement), but, rather, on the actual incurrence by the provider of costs specified in the budget.

c. **ATTACHMENT 6: CAPITAL BUDGET**

The capital budget is a special budget form that must be constructed as a stand-alone budget. A capital budget must be created as a separate unique contract with its own DDS contract ID number and a reference placed in the description of service that shows the contract to which the capital budget is related. Capital budgets are coded under the 3191 activity code. The capital budget is used when a provider is purchasing furnishings and/or equipment which, either individually, or in the aggregate for like items, total an amount exceeding the capitalization level determined by the provider organization in keeping with OSD regulations and generally accepted accounting principles.

Such items are specified on the Capital Budget form along with a statement of the provider's capitalization level. OSD has issued a policy for the purchase of capital items, which is available on the OSD website.

### **NAME OR ADDRESS CHANGE**

A provider that changes its names must communicate the name change to the Department via a letter. The correspondence should include the name change, the provider's Vendor Customer Code, the date the name change was voted on by Board of Directors and effective date. If the address is changing, the letter should include the provider's old and new address. To ensure that all Commonwealth systems can be updated, a provider should also submit:

- 1) Updated W-9
- 2) Updated and signed Terms and Conditions for Health and Human Services.

Correspondence and documents are to be submitted to relevant Regional Contact Office who will process with Central Office and Office of the State Comptroller.

### **CONTRACTOR CHANGE IN IDENTITY FORM**

The following is taken from the *Amendments, Suspensions or Terminations, November 19, 2014 published by the Office of State Comptroller and Operational Services Division*.

In certain limited situations where a change in provider identity occurs (e.g. legal name, organizational structure, tax identification number (TIN), vendor code, merger, or other change in a provider from what was presented in the provider's response to a procurement) a special provider Change in Identity

Form must be executed in place of the Standard Contract Form. A copy of form can be obtained by clicking on this link: <http://www.mass.gov/comptroller/publications-and-reports/forms/contracts.html>

### **Contract Options:**

When faced with a material change in contractor identity, DDS must determine what is in the best interests of the department, what actions are appropriate to prevent a lapse in any necessary services or a project, what the most cost-effective actions are given available resources and funding, and what actions will maintain the integrity of the original procurement

DDS has the following options:

- Continue the contract through assignment to the successor entity, upon review and justification as outlined further in this document;
- Award a short-term interim contract to the intended successor entity on a competitive procurement exception basis (in order to permit adequate time for a review and/or re-procurement and potential transition to a new contractor);
- Award the remaining contract performance as an interim contract to another contractor (the next best value bidder from the original procurement) on a procurement exception basis, if justified;
- Consolidate the contract into another existing contract (if permitted under the original procurement);
- Allow the contract to lapse or terminate the contract;
- Suspend or terminate the current contract and re-procure the contract; or
- Take any other permitted contracting or procurement action.

### **Contract Assignment**

When a contractor is planning a merger or other significant organizational transformation, it is important that DDS be informed as early as possible; at least 60 days advance notice of the potential change is desirable.

### **Evaluating the Impact of a Material Change in Contractor Identity**

The primary responsibility of department staff is to protect the interests of the Commonwealth and of the interests of consumers being served under any contract. The department is responsible for maintaining documentation of its review process and all other relevant information in the procurement file. The successor entity should be aware of Commonwealth audit and audit resolution policies and understand that it may be liable in future years for findings of audits to be conducted of prior year activities.

### **ADMINISTRATIVE PROCESS FOR A MATERIAL CHANGE IN CONTRACTOR IDENTITY**

In cases involving a material change in contractor identity that may affect more than one department, the affected departments may identify a principal procuring department or another agreed upon state agency to assume responsibility for coordinating and facilitating communication among other affected departments. But, the decision on whether or not to assign or terminate a contract may vary within and among departments, depending on the program specific elements of the contract review as well as other administrative factors.



## **Required Documentation**

A material change in contractor identity, such as with most mergers, buyouts and consolidations resulting in a new successor entity, also involve a legal structural change and a new Tax Identification Number. Therefore, along with identifying contract specific information to assign contract performance to the successor entity, several documents are required. There may be instances where the successor contractor is technically not “new” but rather is an existing contractor with a contract for the same type of service, into which the department may decide to incorporate the performance assignment.

The successor contractor must complete and execute, as appropriate:

- request for verification of taxation reporting information (Massachusetts Substitute W-9 Format);
- the Commonwealth Terms and Conditions or Commonwealth Terms and Conditions for Human and Social Services for the successor entity (new contractor);
- a Contractor Change in Identity Form (in appendix) to document any remaining performance and payments to the current contractor and the balance of performance and anticipated amounts to be expended by the new contractor. The Contractor Change in Identity Form documents the new contractor’s commitment to assume all outstanding obligations and responsibilities under the current contract;
- any required attachments that were required under the original RFR (such as Contractor Authorized Signature Verification Form) and Written Disclosure of Current and Anticipated Related Parties pursuant to 808 CMR 1.04.